

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

OLUSESAN ADERIBIGBE)
Plaintiff,)
vs.) Civil Action No. 4:11-cv-02177
THE BRACHFELD LAW GROUP, PC)
Defendant,)

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

OLUSESAN ADERIBIGBE, ("Plaintiff"), through the undersigned counsel, Dave Lilley alleges the following against THE BRACHFELD LAW GROUP, P.C., ("Defendant"):

INTRODUCTION

1. This is an action for actual and statutory damages brought by plaintiff Olusesan Aderibigbe an individual consumer, against defendant The Brachfeld Law Group, PC, for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Venue in this District is proper in that the Defendant transacts business here and the conduct complained of occurred here.

PARTIES

3. Plaintiff, Olusesan Aderibigbe is a consumer, a natural person allegedly obligated to pay any debt, residing in Saint Louis County, in the state of Missouri.

4. Defendant, The Brachfeld Law Group, PC is a corporation engaged in the business of collecting debt in this state with its principal place of business located at 800 W. Sam Houston Pkwy S., Suite 200, Houston, TX 77042. The principal purpose of Defendant is the collection of debts in this state and Defendant regularly attempts to collect debts alleged to be due another.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for a disputed, alleged consumer debt owed under an account number.

7. The debt Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began placing collection calls to Plaintiff in October of 2010.

9. During collection calls, Defendant has both lied to and mislead Plaintiff, by threatening Plaintiff with action that would result in him losing both his home and other personal

property, without having the legal authority or intention to have either done to Plaintiff, stating, “We can take your home,” and, “[W]e can … come after your property[.]”

10. During collection calls, Defendant has threatened Plaintiff with both wage garnishment, and the commencement of litigation, stating, “We can garnish your wages,” and, “We can take you to court[.]”

11. To date, Defendant has not taken any final, definite action to garnish Plaintiff’s wages, or to commence litigation against Plaintiff.

12. Defendant utilized unfair and unconscionable means to try to get payments from Plaintiff, by both lying to him and threatening him with taking his home and property, as well as by discussing Plaintiff’s alleged debt with Plaintiff’s girlfriend, who is an unrelated third party to the alleged and disputed debt, without Plaintiff’s consent.

13. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in his feeling stressed.

CLAIM FOR RELIEF

14. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

15. Defendant violated the FDCPA. Defendant’s violations include, but are not limited to, the following:

- (a) Defendant violated §1692e(10) of the FDCPA by using false, deceptive, or misleading representation or means in connection with the collection of Plaintiff’s alleged debt; and
- (b) Defendant violated §1692e(5) of the FDCPA by threatening to take action that it did not intend to take; and
- (c) Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and

- (d) Defendant violated §1692c(b) of the FDCPA by contacting a third party in connection with the collection of the alleged debt without the consent of the Plaintiff and the contact was not in a manner covered by §1692b of the FDCPA; and
- (e) Defendant violated §1692e(4) of the FDCPA by giving the representation or implication that nonpayment of any debt will result in the garnishment of the wages of Plaintiff, without intending to take said action.

16. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

17. As a result of the foregoing violations of the FDCPA, Defendant is liable to the plaintiff Olusesan Aderibigbe an for declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney fees.

WHEREFORE, Plaintiff OLUSESAN ADERIBIGBE respectfully requests that judgment be entered against defendant THE BRACHFELD LAW GROUP, PC, for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA.
- B. Actual damages.
- C. Statutory damages pursuant to 15 U.S.C. § 1692k.
- D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k.
- E. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff OLUSESAN ADERIBIGBE demands trial by jury in this action.

[ELECTRONIC SIGNATURE AFFIXED ON FOLLOW PAGE]

This 9th day of June, 2011.

ALEX SIMANOVSKY & ASSOCIATES, LLC

/s/ *Dave Lilley*

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